

HOUSE BILL 2352

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 14; Title 39, Chapter 17; Title 47 and Title
67, Chapter 6, relative to ticket sales.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following language as a new, appropriately designated part:

47-18-1601.

This part shall be known and may be cited as the "Fans Anti-Counterfeit Ticket (FACT) Act."

47-18-1602. As used in this part:

- (1) "Commissioner" means the commissioner of commerce and insurance;
- (2) "Consumer" means any person who purchases a ticket;
- (3) "Department" means the department of commerce and insurance;
- (4) "Face value" means the price of a ticket, as determined by the artist or event presenter;
- (5) "Online marketplace" means a web site, software application for a mobile device, or any other digital platform that provides a forum for or facilitates the buying and selling, or reselling, of tickets between third-parties, or any web site that engages in the resale of tickets;
- (6) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or combination of individuals or legal entities;
- (7) "Place of entertainment":

(A) Means an entertainment facility in this state, such as a theater, stadium, museum, arena, amphitheater, racetrack, or other place where performances, concerts, exhibits, games, athletic events, or contests are held and for which an entry fee is charged; and

(B) Includes a facility owned by a school, college, or university only when an event is held for which an entry fee is charged;

(8) "Ticket" means a printed, electronic, or other type of evidence of the right, option, or opportunity to occupy space at, to enter, or to attend a place of entertainment, even if not evidenced by any physical manifestation of such right, option, or opportunity; and

(9) "Ticket broker"

(A) Means any person, or persons acting in concert, involved in the business of reselling tickets of admission to places of entertainment; and

(B) Does not include:

(i) A person who does not regularly engage in the business of reselling tickets, and who resells less than one hundred (100) tickets during any one-year period; or

(ii) Any person operating a web site, software application for a mobile device, or other digital platform whose primary business is to serve as an online marketplace whereby third parties can buy and sell tickets, and whose primary business is not engaging in the reselling of tickets.

47-18-1603.

(a) A ticket broker shall register with the department within one hundred eighty (180) days of the effective date of this act or within thirty (30) days of commencing business as a ticket broker in this state, whichever is later, and shall maintain a valid

registration with the department. To have and maintain a valid registration, a ticket broker shall:

- (1) Submit the ticket broker's business name and street address, and other information as requested by the department;
- (2) Certify that the ticket broker does not use, sell, give, transfer, or distribute software that is primarily designed for the purposes of interfering with the operations of any ticket seller in violation of § 39-17-1104;
- (3) Pay an annual registration fee, as determined by the department, sufficient only to reimburse the department for the administration of this part;
- (4) Renew the registration annually; and
- (5) File a certificate of registration for sales and use tax purposes pursuant to title 67, chapter 6, part 6.

(b) Upon registration, the department shall issue each ticket broker a unique registration number, and publish a list of registered ticket brokers, including registration numbers, on the department's web site. No person may register as a ticket broker who has been convicted of a felony that the commissioner finds reflects unfavorably on the fitness of the person to register, unless the person has been pardoned or has had citizenship rights restored pursuant to title 40, chapter 29.

47-18-1604. A ticket broker shall disclose to any consumer:

- (1) The face value and exact location of the seat of any ticket offered for sale, including any section, row, and seat number;
- (2) Whether the ticket offered for sale is within the actual possession of the ticket broker and available for delivery; and, if not, the period of time when the ticket broker reasonably expects to have the ticket in hand and available for delivery;
- (3) Whether the ticket broker is actively making an offer to procure the ticket;

(4) That the ticket broker warrants to the consumer that the ticket offered for sale is authentic and good for entry into a place of entertainment on the date for which it is offered;

(5) The ticket broker's registration number issued pursuant to § 47-18-1603; and

(6) That the ticket offered for sale was not procured by the use of software primarily designed for the purposes of interfering with the operations of any ticket seller in violation of § 39-17-1104.

47-18-1605. An online marketplace shall facilitate publication of the disclosures required by § 47-18-1604. Additionally, an online marketplace shall disclose clearly and conspicuously to any consumer:

(1) That it is an online marketplace and prices of tickets offered for sale may exceed face value; and

(2) The refund policy of the online marketplace in connection with the cancellation or postponement of an entertainment event.

47-18-1606. Nothing in this part shall prohibit the resale or gift of a ticket.

47-18-1607. Any ticket broker that violates this part, § 39-14-152, or § 39-17-1104, shall be subject to the suspension or revocation of its registration by the department. Any person who knowingly violates this part commits a Class B misdemeanor offense, punishable by fine only.

47-18-1608.

(a) This part shall not apply to any sale of tickets made pursuant to title 4, chapter 51.

(b) This part shall not apply to any sale of tickets made by any convention and visitors bureau; any hotel or other place of public accommodation, as described in title

62, chapter 7; or any operators of any tour conducted by motor coach or bus, as defined in § 55-50-102(4).

47-18-1609. Any person aggrieved by any violation of this part may file a written complaint with the division of consumer affairs or the attorney general and reporter. The attorney general and reporter shall have authority to remediate any violation of this part.

47-18-1610.

(a) The applications for registration held by the department pursuant to this part shall be open to public inspection in accordance with the open records laws compiled in title 10, chapter 7.

(b) Written complaints made pursuant to § 47-18-1609 shall be available for inspection and copying.

SECTION 2. The commissioner is authorized to promulgate rules to effectuate the Fans Anti-Counterfeit Ticket (FACT) Act, compiled in title 47, chapter 18, part 16. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following new subdivision:

(51) Violating § 39-17-1104 when the violation causes a consumer to be unable to purchase a ticket;

SECTION 4. Tennessee Code Annotated, Section 39-14-152(a)(1), is amended by adding the following as a new, appropriately designated subdivision:

(C) Markings, including, but not limited to, bar codes, intellectual property as defined in § 39-14-152, statements of rights of ticketholders and ticket issuers, or row and seat identifying information, knowingly affixed to any document, either in electronic

or paper form, so that the substance of the document imitates the appearance of a ticket, as defined in § 47-18-1602.

SECTION 5. Tennessee Code Annotated, Section 39-17-1104, is amended by adding the following as a new, appropriately designated subsection:

Any person injured as a result of a violation of this section may file a criminal complaint with the district attorney general of the judicial district where the venue is located, alleging a violation of this section. A district attorney general may prosecute an alleged violation of this section in any county in which the offense occurs.

SECTION 6. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.